



# Insurance Department

State of Utah

R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

TODD E. KISER  
Acting Commissioner

## State of Utah Title and Escrow Commission Meeting Meeting Information

**Date:** March 10, 2014

**Time:** 9:00AM

**Place:** East Bldg, Copper Room

### MEMBERS

#### COMMISSION MEMBERS

Chair, Kirk Smith, *Weber Cnty*

Matt Sager, *Maricopa Cnty, AZ*

Co-Chair, Larry Blake, *Washington Cnty*

Sylvia Andersen, *Public Member*

Jeff Wiener, *Salt Lake Cnty*

#### DEPARTMENT STAFF

Perri Babalis, *AG Counsel*  
Green-Wright, *MC Dir.*

Brett Barratt, *Deputy Comm.*  
Tammy Greening, *Examiner*

Mark Kleinfield, *ALJ* Suzette  
Jilene Whitby, *PIO Recorder*

### AGENDA

#### *General Session: (Open to the Public)*

- **Welcome / Kirk Smith, Chair**
- **Adopt Minutes of Previous Meeting**
- **Reports**
  - Concur with Licensee Report / Tammy
  - Concur with Complaint & Enforcement Report / Brett
    - Report on total number of licensees
  - Request for Dual Licensee Expedited Request: None
  - Request for Attorney Exemption: None
- **Administrative Proceedings Action / Mark Kleinfield, ALJ**
  - Stipulation & Order:
    - Hillary Martin; Default & Default Order
  - Request for a Hearing: None
  - Order to Show Cause: None
  - Informal Adjudicative Proceeding & Order: None
  - Notice of Formal Adjudicative Proceeding: None
- **New Business**
  - Discuss Proposed Prohibited Escrow Settlement Closing Transactions Rule / Jeff
- **Old Business**
  - Update: SIRCON Sending Renewal Notices to Both Insurers & Agencies / Brett
    - Will notices be sent out prior to lapse date?
  - Discuss Proposed Changes to R592-2, Administrative Hearings / Matt
  - Status of Filed Rule R592-8-5, Attorney Exemption / Brett
  - Status of Filed Rule R592-11, Annual Reports / Brett
    - Is proposed change in R592-11-3(2)(d) non-substantive?
  - Legislative Update
  - Williams Title Guaranty & Escrow Agency, Ltd, Inc./Perri
- **Other Business**

#### *Executive Session (Closed to Public)*

#### *General Session: (Open to the Public)*

- **Adjourn:**
- **Next Meeting:** April 14, 2014, Copper Room

# Title Agency Monthly Report

For the month of February, 2014

## New License

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
174379	SILVER LEAF TITLE INSURANCE AGENCY	2/11/2014	2/29/2016			TE
174452	LYDOLPH & WEIERHOLT TITLE INSURANCE	2/25/2014	2/29/2016			TE
174379	SILVER LEAF TITLE INSURANCE AGENCY	2/11/2014	2/29/2016			TS
174452	LYDOLPH & WEIERHOLT TITLE INSURANCE	2/25/2014	2/29/2016			TS

## License Renewal

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
162983	ACADEMY TITLE	2/25/2010	2/29/2016			TE
162983	ACADEMY TITLE	2/25/2010	2/29/2016			TS
6951	ACCESS TITLE COMPANY, INC	5/16/2002	2/29/2016			TE
6951	ACCESS TITLE COMPANY, INC	5/16/2002	2/29/2016			TS
6447	CEDAR LAND TITLE, INC	5/16/2002	2/29/2016			TE
6447	CEDAR LAND TITLE, INC	5/16/2002	2/29/2016			TS
6522	FIDELITY LAND & TITLE	5/16/2002	2/29/2016			TE
6522	FIDELITY LAND & TITLE	5/16/2002	2/29/2016			TS
7721	FIRST AMERICAN TITLE INSURANCE AGENC	5/16/2002	2/29/2016			TE
6953	INWEST TITLE SERVICES, INC	5/16/2002	2/29/2016			TMR
6953	INWEST TITLE SERVICES, INC	5/16/2002	2/29/2016			TE
7721	FIRST AMERICAN TITLE INSURANCE AGENC	5/16/2002	2/29/2016			TS
6953	INWEST TITLE SERVICES, INC	5/16/2002	2/29/2016			TS
168627	MAGELLAN TITLE	2/23/2012	2/29/2016			TE
168627	MAGELLAN TITLE	2/23/2012	2/29/2016			TMR
168627	MAGELLAN TITLE	2/23/2012	2/29/2016			TS

Wednesday, March 05, 2014

# Title Agency Monthly Report

For the month of February, 2014

## License Renewal

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
6772	SOUTHERN UTAH TITLE COMPANY OF CEDA	5/16/2002	2/29/2016			TE
6772	SOUTHERN UTAH TITLE COMPANY OF CEDA	5/16/2002	2/29/2016			TS
168396	WILLIAMS TITLE GUARANTY AND ESCROW A	2/8/2012	2/29/2016			TE
168396	WILLIAMS TITLE GUARANTY AND ESCROW A	2/8/2012	2/29/2016			TS

## Lapse Licenses

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
13117	COMMERCE LAND TITLE INCORPORATED	1/29/2004	1/31/2014	1/31/2014		TE
13117	COMMERCE LAND TITLE INCORPORATED	1/29/2004	1/31/2014	1/31/2014		TS
161849	NTN TITLE AGENCY	9/17/2009	9/30/2013	1/31/2014		TE
161849	NTN TITLE AGENCY	9/17/2009	9/30/2013	1/31/2014		TS

## Reinstated License

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
10682	CANYON RIDGE TITLE & ESCROW INSURAN	5/16/2002	10/31/2015	11/30/201	2/27/2014	TE
10682	CANYON RIDGE TITLE & ESCROW INSURAN	5/16/2002	10/31/2015	11/30/201	2/27/2014	TS

# Title Individual Monthly Report

For the month of February, 2014

## License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
89680	MICHAEL VAL LEWIS	05-06-2003	02-29-2016			TMR
89680	MICHAEL VAL LEWIS	05-06-2003	02-29-2016			TE
31164	SHARON LEANN KEARNS	05-16-2002	02-29-2016			TE
36189	MICHAEL B MARTIN	05-16-2002	02-29-2016			TE
1457512	LUCAS LYNN BAGLEY	05-09-2011	02-29-2016			TE
26467	PENNY JENKINS	05-16-2002	02-29-2016			TE
91663	DEBRA K HARRIS	06-26-2003	02-29-2016			TE
40561	MICHAEL T BRINGHURST	05-16-2002	02-29-2016			TE
41096	TAMRA COLEMAN BRIGHT	05-16-2002	02-29-2016			TS
1457512	LUCAS LYNN BAGLEY	05-09-2011	02-29-2016			TS
29967	DALE M HATHCOCK	05-16-2002	02-29-2016			TS
38182	CORTLUND G ASHTON	05-16-2002	02-29-2016			TS
38182	CORTLUND G ASHTON	05-16-2002	02-29-2016			TE
66125	DANNETTE LINDA ARNELL	05-16-2002	02-29-2016			TE
43739	STEVEN J ALGER	05-16-2002	02-29-2016			TS
29105	LORI M MOORE	05-16-2002	02-29-2016			TE
42640	D SHANE CURLIS	05-16-2002	02-29-2016			TS
68155	JENNIFER L BAILEY	05-16-2002	02-29-2016			TE
115649	JASON L STEINER	07-07-2005	02-29-2016			TE
40036	LESLIE HEPPLER	05-16-2002	02-29-2016			TE

# Title Individual Monthly Report

For the month of February, 2014

## License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
65018	JEANNE M PRIEST	05-16-2002	02-29-2016			TE
37421	DEBRA A QUINN	05-16-2002	02-29-2016			TE
35771	RODNEY K DEAN	05-16-2002	02-29-2016			TE
45633	R SCOTT SILER	05-16-2002	02-29-2016			TE
91218	ERIK THOMAS PEARSON	06-13-2003	02-29-2016			TMR
137842	JOSEPH ROBERT STEGGELL	05-16-2007	02-29-2016			TS
113915	TAISHA LEA OSTLER	05-17-2005	02-29-2016			TE
115649	JASON L STEINER	07-07-2005	02-29-2016			TS
45362	BARBARA JEAN TWITCHELL	05-16-2002	02-29-2016			TE
45362	BARBARA JEAN TWITCHELL	05-16-2002	02-29-2016			TS
30907	ROBERT BROOKE WILLIAMSEN	05-16-2002	02-29-2016			TE
30907	ROBERT BROOKE WILLIAMSEN	05-16-2002	02-29-2016			TS
63751	DONNA MARIE MARTINEZ	05-16-2002	02-29-2016			TE
137842	JOSEPH ROBERT STEGGELL	05-16-2007	02-29-2016			TE
1464736	SARAH M. ENGLAND	08-03-2011	02-29-2016			TE
29967	DALE M HATHCOCK	05-16-2002	02-29-2016			TE
40561	MICHAEL T BRINGHURST	05-16-2002	02-29-2016			TS
30595	JOYCE GARDINER	05-16-2002	02-29-2016			TS
71241	KRISTY L CARTER	05-16-2002	02-29-2016			TE
125955	SETH C FINLINSON	03-07-2006	02-29-2016			TE

# Title Individual Monthly Report

For the month of February, 2014

## License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
96376	THELISSA DEE PLYER	11-26-2003	02-29-2016			TS
40317	BRUCE EVANS	05-16-2002	02-29-2016			TE
71117	CASEY BOYD WILLOUGHBY	05-16-2002	02-29-2016			TE
39505	TRACY DYE	05-16-2002	02-29-2016			TMR
45633	R SCOTT SILER	05-16-2002	02-29-2016			TS
35771	RODNEY K DEAN	05-16-2002	02-29-2016			TS
118931	ADAM T MOORE	09-23-2005	02-29-2016			TE
98443	JEFFREY P MORTENSEN	02-09-2004	02-29-2016			TS
93959	LAURIZA OLSON	09-08-2003	02-29-2016			TS
40317	BRUCE EVANS	05-16-2002	02-29-2016			TS

## Late License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
42624	WILLIAM R FEVEYEAR	05-16-2002	02-29-2016			TS
42624	WILLIAM R FEVEYEAR	05-16-2002	02-29-2016			TE
138303	JONATHAN ROY IVINS	04-27-2011	02-29-2016			TE

## Lapse Licenses

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
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# Title Individual Monthly Report

For the month of February, 2014

## Lapse Licenses

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
64683	BRANDON SCOTT SMITH	05-16-2002	01-31-2014	3/2/2014		TE
65453	AUBRI R BUEHLER	05-16-2002	01-31-2014	3/2/2014		TE
76041	MATTHEW WINKELKOTTER	05-16-2002	01-31-2014	3/2/2014		TS
65453	AUBRI R BUEHLER	05-16-2002	01-31-2014	3/2/2014		TS
1411513	LESLIE PEARCE	01-04-2010	01-31-2014	3/2/2014		TE
52275	ELAMAE W CHAPLIN	05-16-2002	01-31-2014	3/2/2014		TMR
52275	ELAMAE W CHAPLIN	05-16-2002	01-31-2014	3/2/2014		TE
44001	WARREN C ROBINSON	05-16-2002	01-31-2014	3/2/2014		TS
44001	WARREN C ROBINSON	05-16-2002	01-31-2014	3/2/2014		TMR
44001	WARREN C ROBINSON	05-16-2002	01-31-2014	3/2/2014		TE
16062	Christine Marie Hansen	05-16-2002	01-31-2014	3/2/2014		TE
143131	KRISTA N. KNUDSEN	08-09-2007	01-31-2014	3/2/2014		TE

## Reinstated License

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
37699	WAYNE G TANNER	05-16-2002	12-31-2015	1/30/2014	2/5/2014	TE
37699	WAYNE G TANNER	05-16-2002	12-31-2015	1/30/2014	2/5/2014	TS
96273	MICHAEL CHASE PHILLIPS	11-21-2003	01-31-2016	3/2/2014	2/10/2014	TS
96273	MICHAEL CHASE PHILLIPS	11-21-2003	01-31-2016	3/2/2014	2/10/2014	TMR

## Title Individual Monthly Report

For the month of February, 2014

### Reinstated License

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
96273	MICHAEL CHASE PHILLIPS	11-21-2003	01-31-2016	3/2/2014	2/10/2014	TE
117977	Jennifer Lynn Kay	09-06-2005	01-31-2016	3/2/2014	2/6/2014	TMR
75484	CLAIRE A DREW	05-16-2002	09-30-2016	4/30/2004	2/18/2014	TE
117977	Jennifer Lynn Kay	09-06-2005	01-31-2016	3/2/2014	2/6/2014	TE



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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

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UTAH INSURANCE DEPARTMENT,  
  
Complainant,

vs.

HILARY MARTIN, License No. 86441,  
10186 N. 6960 W. Highland, Ut 84003  
  
Respondent.

**DEFAULT  
AND DEFAULT ORDER**

Docket No. 2013-150-PC

Enforcement Case No. 3365

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**DEFAULT**

On Tuesday, January 21, 2014 at 10:00 a.m. the date and time set for a Prehearing Conference in this matter, the Complainant Utah Insurance Department appeared through its counsel, Gary D. Josephson, Assistant Attorney General. The Respondent failed to appear either in person or through legal counsel. Further, more than 30 days have passed since the December 10, 2013 mailing of the Complaint and Notice of Formal Adjudicative Proceeding in this matter, with no response having been received; therefore, pursuant to Utah Code § 63G-4-209, the

Default of the Respondent is hereby entered.

DATED this 12<sup>th</sup> day of February, 2014.

TODD E KAISER  
INSURANCE COMMISSIONER

  
MARK E. KLEINFELD, Esq.  
Administrative Law Judge  
Utah Insurance Department

**DEFAULT ORDER**


The Default of Respondent having previously been entered, I hereby adopt the allegations in the filed Complaint as the Findings of Fact and Conclusions of Law, and enter the following recommended Order:

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. The Title Insurance Escrow Agent License of Respondent, Hilary Martin, is hereby revoked.
2. Respondent is ordered to immediately cease doing any insurance business in the State of Utah.

DATED this 12<sup>th</sup> day of February, 2014.

TODD E. KAISER  
INSURANCE COMMISSIONER

  
MARK E. KLEINFELD, Esq.  
Administrative Law Judge  
Utah Department of Insurance

## **ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY**

By a vote of \_\_\_\_\_ to \_\_\_\_\_, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended Order of the Administrative Law Judge and imposes the penalties recommended.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_, Chairman  
Title and Escrow Commission

### **NOTIFICATION**

Respondent is hereby notified that failure to abide by the terms of this order may subject him to further penalties, including additional forfeitures of up to \$5,000.00 per violation and the filing of an action to enforce this Order in the District Court which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on this date, a true and correct copy of the Notice of Agency Action and Complaint were mailed, postage prepaid, to the following:

**DEFAULT AND  
DEFAULT ORDER**

To the following:

**Hilary Martin  
10186 N 6960 W  
Highland UT 84003**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
LINDA HARDY  
UTAH INSURANCE DEPARTMENT  
STATE OFFICE BUILDING, ROOM 3110  
SALT LAKE CITY, UT 84114-6901

## **R592. Insurance, Title and Escrow Commission.**

### **Rule R592-XX. Prohibited Escrow Settlement Closing Transactions.**

#### **Table of Contents**

R592-XX-1. Authority.

R592-XX-2. Purpose and Scope.

R592-XX-3. Definitions.

R592-XX-4. Unfair Methods of Competition, Acts and Practices.

R592-XX-5. Permitted Advertising, Business Entertainment, and Methods of Competition.

R592-XX-6. Enforcement Date.

R592-XX-7. Severability.

KEY

Date of Enactment or Last Substantive Amendment

Authorizing, Implemented, or Interpreted Law

#### **R592-XX-1. Authority.**

This rule is promulgated pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer or individual title insurance producer.

#### **R592-XX-2. Purpose and Scope.**

(1) The purpose of this rule is to identify certain escrow practices involving two or more back to back sales/purchases of the same parcel of real property, which the Commission finds may often involve fraud or violate the Insurance Code or rules, and therefore it is necessary identify and prohibit such conduct.

(2) These practices include sales/purchases of the same parcel of real property where funds from the final purchaser are received by the initial seller despite having no contractual privity and those where no statutory authority exists for the title insurer, agency title insurance producer or individual title insurance producer to conduct one or more of such escrows under Section 31A-23a-406 and R592-6-4(5).

(3) This rule applies to all title insurers, agency title insurance producers, individual title insurance producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

#### **R592-XX-3. Definitions.**

For the purpose of this rule the Commission adopts the definitions as set forth in Section 31A-1-301 and the following:

(1) "Land flip" means two or more escrows for the sale/purchase of real property that involve substantially the following circumstances exist:

- (a) Seller "A" contracts with Buyer "B" to sell a parcel of real property;
- (b) Buyer "B" then contracts with Buyer "C" to sell the same parcel of real property; and
- (c) Buyer "B" anticipates acquiring the parcel and selling the parcel at or near the same time.

#### **R592-XX-4. Permitted Escrows of Flip Transactions.**

Title insurers, agency title insurance producers, individual title insurance producers are permitted to conduct escrows involving a land flip, if each real estate transaction stands on its own and the following circumstances exist:

(1) The transaction between Seller "A" and Buyer "B" close independently from the transaction between Buyer "B" and Buyer "C";

(2) The funds deposited by Buyer "C" may not be used to fund the closing between Seller "A" and Buyer "B." Buyer "B" must provide funds independent of the funds generated by Buyer "C";

(3) One or more policies of title insurance required under Section 31A-23a-406(c) are issued in the transaction between Seller "A" and Buyer "B", and one or more policies of title insurance required under Section 31A-23a-406(c) are issued in the transaction between Buyer "B" and Buyer "C";

(4) Buyer "B" must close with Buyer "B's" own good funds and record, so that Buyer "B" is in title prior to the second transaction closing and recording.

The above structure insures compliance with 31A Section 31A-23a-406 and R592-6-4. (See Illustration 1).

**R592-XX-5. Prohibited Escrows of Flip Transactions.**

Except as allowed under R592-XX-4, title insurers, agency title insurance producers, individual title insurance producers are prohibited from conducting any escrows involving a land flip. (See Illustration 2).

**R592-XX-6. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

**R592-XX-7. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY**

title insurance

**Date of Enactment or Last Substantive Amendment**

**Authorizing, Implemented, or Interpreted Law**

31A-2-404

## R592-2-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-404(2)(e), ~~(g), and (h)~~, ~~and (6)~~ to provide the process for conducting or delegating an administrative hearing in a title insurance matter ~~administrative hearing~~ and imposing a penalty for a violation of statute or rule.

## R592-2-2. Purpose and Scope.

(1) The purposes of this rule are:

(a) to establish procedures for the eCommission:

(i) to delegate to the eCommissioner's administrative law judge the conduct of an administrative hearing to resolve a title insurance matter; or

(ii) to conduct an administrative hearing to resolve a title insurance matter; and

(b) to establish procedures for the eCommission,

(i) to impose penalties; and

(ii) for the eCommissioner to concur with the penalties imposed.

(2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing the business of title insurance, and continuing education providers submitting title continuing education programs for approval.

## R592-2-3. Definitions.

For purposes of this rule, the ~~commission~~ Commission adopts the definitions set forth in Utah Code Annotated (U.C.A.) Title 31A and the following:

(1) "Commission" means the Title and Escrow Commission.

(2) "Commissioner" means the Utah's insurance commissioner.

(3) "Title insurance matter" means a matter related to:

(a) title insurance; and

(b) an escrow conducted by a title producer.

## R592-2-4. Title Insurance Matters Referred for Enforcement.

(1) A title insurance matter referred for enforcement will be resolved by:

(~~ia~~) an informal adjudicative ~~action proceeding~~ pursuant to R592-2-5; or

~~(ii) a stipulation and order issued by the commissioner; or~~

(~~iii~~) ~~a formal administrative adjudicative proceeding hearing~~ conducted either by the eCommission or the eCommissioner's administrative law judge pursuant to R592-2-6.

## R592-2-5. Imposition of a Penalty When an Informal Adjudicative Proceeding Is Used to Resolve a Title Insurance Matter.

(1) If the eCommissioner uses an informal adjudicative proceeding as set forth in 63G-4-203 and R590-160 to resolve a violation listed in Table 1 below, the eCommissioner shall use the penalties imposed by the eCommission in this Section.

(2) The eCommission shall impose the following penalties on title licensees for the violations listed in Table 1 below when resolved through an informal adjudicative proceeding.

Table 1

Violation	1 <sup>st</sup> Proceeding	2 <sup>nd</sup> Proceeding
<del>Failure to complete required continuing education hours.</del>	<del>Individual: \$1,000;</del> <del>Agency: n/a</del>	<del>Individual: \$2,000;</del> <del>Agency: n/a</del>
Failure to respond to an inquiry of the commissioner.	Individual: \$500; Agency: \$750	Individual: \$1,000; Agency: \$1,500
Failure to file a required rate, form, or report.	Individual: n/a Agency: \$1,000	Individual: n/a; Agency: \$2,000
Late filing of a required rate, form, or report.	Individual: n/a; Agency: \$750	Individual: n/a; Agency: \$1,500
Failure to charge or collect a correct premium or a correct filed fee.	Individual: <del>\$1,000</del> <u>\$1,250</u> ; Agency: \$2,500	Individual: \$2, <del>05</del> <u>00</u> ; Agency: \$5,000



Failure to provide a current email.  
Individual: \$100  
Agency: \$250

Charging or collecting a non-filed required fee.	Individual: \$1,000; Agency: \$2,500	Individual: \$2,000; Agency: \$5,000
Failure to pay assessment when due.	Individual: <del>\$500</del> 1,000; Agency: <del>\$750</del> 1,500	Individual: <del>\$1</del> 2,000; Agency: <del>\$1,500</del> 3,000

Conducting title insurance business on a license that has lapsed for 30 days or less.  
Individual: \$250  
Agency: \$1,500

(3) If an informational adjudicative proceeding in the Commissioner resolves a title insurance matter is proposed to be resolved through settlement and negotiation, prior to entering into a stipulation and order, the Commissioner shall present to and discuss with the Commission a proposed resolution of the title insurance matter based on the following procedures:

(a) The Commissioner shall provide the parties involved with a draft stipulation of facts, which may include aggravating and mitigating factors, and conclusions of law pertaining to the title insurance matter with a recommended penalty;

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(b) If the parties involved agree to the stipulation of facts and conclusions of law, the stipulation of facts and conclusions of law together with the Commissioner's recommended penalty will be presented to the Commission for the imposition of the penalty which penalty will be imposed if the Commission concurs with the recommended penalty; or aggravating;

(c) If the Commission does not concur with the Commissioner's recommended penalty, the Commission will provide the Commissioner a recommended penalty which penalty will be imposed upon the concurrence of the Commissioner; either impose a, in accordance with Utah Code Ann. § 31A-2-404 and

, and recommended penalty

Comment [P1]: Is Subsection (f) necessary? The Commission has already imposed the penalty???

(d) A party involved in an informal hearing may at any time request that the title insurance matter be resolved by a Formal Adjudicative Proceeding pursuant to R592-2-6.

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## R592-2-6. Use of a Formal Adjudicative Proceeding Administrative Hearing to Resolve a Title Insurance Matter.

~~(1) When the commissioner sets a date for an administrative hearing to resolve a title insurance matter~~

(1) Before the Commissioner sets a date for a hearing, the Commissioner shall inform the eCommission of the title insurance matter and the request for a hearing date.

(2) After being informed of the a request for a hearing date, the eCommission shall, in accordance with Section 31A-2-404(2)(e), either:

(a) delegate the conduct of the administrative hearing to the eCommissioner's administrative law judge; or

(b) conduct the administrative hearing; or

(c) unless requested by a party that the Commission conduct the hearing, any title insurance matter that has been presented to the Commission per R592-2-5(3) shall be delegated to the Commissioner's administrative law judge.

(3) In For an administrative hearing in a formal adjudicative proceeding conducted by the eCommission, the eCommission shall:

(a) accept set the date, time and place set by the commissioner or set a different date, time, and place for the administrative hearing;

(b) cause notification to be sent to the respondent(s), the Commissioner's administrative law judge, and the eCommissioner's enforcement attorney of the date, time, and place of the administrative hearing;

(c) conduct the hearing pursuant to U.C.A. 63G-4-206 and R590-160;

(d) impose penalties in accordance with Sections 31A-2-308, 31A-2-404, 31A-23a-111, 31A-23a-112, 31A-26-213, and 31A-26-214, subject to the concurrence of the commissioner/Commissioner; and

(e) issue an Order on Hearing.

(4) The eCommissioner's administrative law judge shall assist the eCommission in its conduct of an administrative a hearing.

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## R592-2-7. Imposition of Penalties.

The eCommission shall impose a penalty as follows:

- (1) ~~(1) If~~ For an informal adjudicative proceeding pursuant to R592-2-5(1), a penalty shall be imposed in accordance with Table 1 in R592-2-5(2).
- (2) ~~For a stipulation and order approved by the Commissioner pursuant to R592-2-5(3), the Commission shall:~~ impose a penalty, subject to the concurrence of the Commissioner.
  - ~~— Impose the recommended penalty; or~~
  - ~~— Return the title insurance matter to the Commissioner for further resolution.~~
- (3) ~~If~~ For a ~~n~~ administrative hearing hearing on a formal adjudicative proceeding conducted by the eCommissioner's administrative law judge pursuant to R592-2-6(2)(a), the eCommission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner; or
- (4) ~~If~~ For an administrative hearing a hearing on a formal adjudicative proceeding conducted by the eCommission, the eCommission shall impose a penalty, subject to the concurrence of the eCommissioner.
- (5) ~~In the event the Commissioner does not concur with the penalty imposed by the Commission, the title insurance matter shall be returned to the Commissioner for further resolution.~~

## R592-2-8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

## R592-2-9. Enforcement Date.

The eCommissioner will begin enforcing this rule upon the rule's effective date.

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Comment [P2]: I question whether this Subsection (3) is accurate. It states that the Commissioner shall impose the ALI's recommended penalty. What if the Commission does not agree with the ALI's penalty?

**R592. Insurance, Title and Escrow Commission.**

**R592-8. Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing.**

**R592-8-5. Request for Exemption Process.**

(1) An individual title licensee, who is an attorney as defined in this rule desiring to obtain an agency title insurance producer license under the exemption provided in 31A-23A-204(1)(c), shall make a request for exemption to the Commissioner in accordance with the requirements of this subsection.

(2) The applicant will submit a letter addressed to the Commission:

(a) requesting exemption from the licensing time period requirements in 31A-23a-204(1)(a)(i); and

(b) providing the following information:

(i) the applicant's name, mailing address and email, telephone number, and title license number;

(ii) a description of the applicant's real estate experience; and

(iii) why the applicant feels that experience qualifies the applicant for the exemption.

(3) The Commissioner will review the request for exemption within five business days of its receipt and

(a) request additional information from the applicant;

(b) preliminarily approve the request for exemption; or

(c) preliminarily disapprove the request for exemption.

(4) The Commissioner will report monthly to the Commission all preliminarily approved or denied requests for exemption received and reviewed since the previous Commission meeting.

(5) The Commission will concur or non-concur with the Commissioner's preliminary approval or denial of a request for exemption.

(6) If the Commissioner's preliminary denial of a request for exemption is concurred with by the Commission, the Commissioner will:

(a) notify the applicant of the denial; and

(b) inform the applicant of ~~his~~ the applicant's right to ~~[agency review pursuant to R590-160]~~ a hearing.

(7) If the Commissioner's preliminary approval of a request for exemption is concurred with by the Commission, the Commissioner will expeditiously notify the applicant to submit an electronic license application and pay the required fees and assessments.

(8) If the Commission does not concur with the commissioner's preliminary approval or preliminary denial, the applicant shall be informed of the applicant's right to a hearing.

**KEY: attorney exemption application process**

**Date of Enactment or Last Substantive Amendment: ~~[June 25, 2009]~~ 2014**

**Authorizing, and Implemented or Interpreted Law: 31A-1-301; 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-102; 31A-23a-204**

**R592. Insurance, Title and Escrow Commission.**

**R592-11. Title Insurance Producer Annual and Controlled Business Reports.**

**R592-11-1. Authority.**

This rule is promulgated pursuant to:

(1) Section 31A-2-404(2)(a), which requires the Title and Escrow Commission (Commission) to make rules related to title insurance;

(2) Section 31A-23a-413, which requires the annual filing of a report by each agency title insurance producer, individual title insurance producer, and attorney licensed to practice law in Utah, who is also an individual title insurance producer not designated to a title insurance agency~~[-as defined in R592-11-3]~~, containing a verified statement of the producer's financial condition, transactions, and affairs; ~~[and]~~

(3) Subsection 31A-23a-503(8), which requires the annual filing of a controlled business report~~[-]~~; and

(4) Subsection 31A-23a-406(1)(g), which requires the maintenance of a physical address in Utah.

**R592-11-2. Purpose and Scope.**

(1) The purpose of this rule is to establish the form and filing deadline for the Title Insurance Producer Annual Report and Controlled Business Report required by Section 31A-23a-413 and Subsection 31A-23a-503(8)(a).

(2) This rule applies to all agency title insurance producers, individual title insurance producers, and attorneys licensed to practice law in Utah, who are also individual title insurance producers not designated to a title insurance agency~~[-as defined in R592-11-3]~~.

**R592-11-3. Title Insurance Producer Annual Report.**

(1) The following shall file a Title Insurance Producer Annual Report containing the information shown in Subsection R592-11-~~[4]~~3(2):

(a) an agency title insurance producer;

(b) an individual title insurance producer not designated to an agency title insurance producer; and

(c) an attorney licensed to practice law in Utah, who is also an individual title insurance producer not designated to a title insurance agency.

(2) A Title Insurance Producer Annual Report shall consist of:

(a) a balance sheet and an income and expense statement prepared and presented in conformity with generally accepted accounting principles;

(i) title premium, including endorsement income and expenses, shall be reported separately from the escrow income and expenses;

(b) the name and address of each financial institution where a title or escrow trust account is maintained;

(c) proof of financial protection that complies with Subsection 31A-23a-204(2) shall consist of one or more of the following:

(i) a copy of the declarations page of a fidelity bond;

(ii) a copy of the declarations page of a professional liability insurance policy; or



(iii) a copy of the commissioner's approval of equivalent financial protection~~[-and]~~ approved by the commissioner;

(d) ~~[the name, address, and percentage of ownership of each owner; and~~

~~\_\_\_\_\_ (e) \_\_\_\_\_]~~ the name of the individual title insurance producer designated as the "qualifying licensee," as provided in 31A-23a-204~~[-]~~; and

(e) the physical address in Utah maintained by the agency title insurance producer or individual title insurance producer, pursuant to 31A-23a-406(1)(g).

(3) Subsection R592-11-~~[4]~~3-(2)(c) does not apply to an attorney exempted under 31A-23a-204(8).

(4) Agency title insurance producers, individual title insurance producers not designated to an agency title insurance producer and an attorney licensed to practice law in Utah, who is also an individual title insurance producer, not designated to a title insurance agency, shall file a Title Insurance Producer Annual Report not later than April 30 of each year.

(5) The Title Insurance Producer Annual Report period shall be the preceding calendar year.

(6) A Title Insurance Producer Annual Report will be considered protected data if the producer submitting the report requests classification as a protected record in accordance with Sections 63G-2-305 and 63G-2-309.

#### **R592-11-4. Controlled Business Report.**

(1) The following shall file an annual Controlled Business [ ]Report not later than April 30 of each year:

(a) an agency title insurance producer;

(b) an individual title insurance producer not designated to an agency title insurance producer; and

(c) an attorney licensed to practice law in Utah, who is also an individual title insurance producer not designated to a title insurance agency.

(2)(a) The Controlled Business Report period shall be the preceding calendar year and shall contain the information required in Subsection 31A-23a-503(8)(a)~~[-]~~; and

(b) contain the name, address, and percentage of ownership of each owner.

(3) A Controlled Business Report is a public record upon filing.

#### **R592-11-5. Electronic Filing of Title Insurance Producer Annual Report and Controlled Business Report.**

(1) The Title Insurance Producer Annual Report and the Controlled Business Report shall be submitted together electronically via email to market.uid@utah.gov.

(2) The Title Insurance Producer Annual Report and the Controlled Business Report shall be submitted not later than April 30 of each year as attachments to the Title Insurance Agency Annual Reports Transmittal Form.

(3) The following report forms, which are available on the department's website, shall be used to submit the Title Insurance Producer Annual Report and the Controlled Business Report:

(a) Title Insurance Producer Annual and Controlled Business Reports Transmittal form; and

(b) Controlled Business Report form.

(4) Actual copies of the forms may be used or may be adapted to a particular word processing system, however, if adapted, the content, size, font, and format shall be similar.

**R592-11-6. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R592-11-7. Enforcement Date.**

The commissioner will begin enforcing this rule 5 days from the rule's effective date.

**R592-11-8. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: title insurance**

**Date of Enactment or Last Substantive Amendment: 2014**

**Notice of Continuation: June 15, 2011**

**Authorizing, and Implemented or Interpreted Law: [~~31A-23-313,~~  
~~31A-23-403]~~ 31A-2-404(2)(a); 31A-23a-406(1)(g); 31A-23a-413;  
31A-23a-503(8)**

## **PRESENTATION ON PROCEDURES FOR REVIEW OF TITLE AGENCY PROFITABILITY**

Applicable codes and rules to consider:

31A-19a-209(3):

### **31A-19a-209(3)**

A title insurance insurer, individual title insurance producer, or agency title insurance producer may not file or use any rate or other charge relating to the business of title insurance, including rates or charges filed for escrow that would cause the title insurance company, individual title insurance producer, or agency title insurance producer to:

- (a) operate at less than the cost of doing:
  - (i) the insurance business; or
  - (ii) the escrow business; or
- (b) fail to adequately underwrite a title insurance policy.

31A-23a-413:

### **31A-23a-413. Title insurance producer's annual report.**

An agency title insurance producer and an individual title insurance producer who has not been designated by an agency title insurance producer shall annually file with the commissioner, by a date and in a form the commissioner specifies by rule, a verified statement of the agency title insurance producer's or individual title insurance producer's financial condition, transactions, and affairs as of the end of the preceding calendar year.

R592-11-4 & 5:

### **R592-11-4. Title Insurance Producer Annual Report.**

(1) Title insurance producers, as defined in R592-11-3, shall file a Title Insurance Producer Annual Report containing the information shown in subsection 2 below.

(2) A Title Insurance Producer Annual Report shall consist of:

- (a) a balance sheet and an income and expense statement prepared and presented in conformity with generally accepted accounting principles;
- (b) the name and address of each financial institution where a title or escrow trust account is maintained;



(c) unless the producer is an attorney exempted under 31A-23a-204(8), proof of financial protection that complies with Subsection 31A-23a-204(2) consisting of one or more of the following:

- (i) a copy of the declarations page of a fidelity bond;
  - (ii) a copy of the declarations page of a professional liability insurance policy; or
  - (iii) a copy of the commissioner's approval of equivalent financial protection; and approved by the commissioner;
- (d) the name, address, and percentage of ownership of each owner.

(3) A title insurance producer, as defined in R592-11-3, shall file a Title Insurance Producer Annual Report not later than April 30 of each year.

(4) The Title Insurance Producer Annual Report period shall be the preceding calendar year.

(5) A Title Insurance Producer Annual Report will be considered protected data if the producer submitting the report requests classification as a protected record in accordance with Sections 63G-2-305 and 63G-2-309.

#### **R592-11-5. Controlled Business Report.**

(1) A title insurance producer, as defined in R592-11-3, shall file an annual Controlled Business Report not later than April 30 of each year.

(2) The Controlled Business Report period shall be the preceding calendar year and shall contain the information required in Subsection 31A-23a-503(8)(a).

(3) A Controlled Business Report is a public record upon filing.

R592-15-7:

#### **R592-15-7. Charges.**

(1) Escrow Service Charges.

(a) In accordance with subsection 31A-19a-209(3), no charge may be filed or used that would cause the agency title insurance producer or individual title insurance producer to operate at less than the cost of doing the business of escrow.

(b) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.

(2) Other Settlement Services Charges.

(a) other settlement services charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.

(b) other settlement service charge must be filed as a per hour charge.

(3) Document Preparation Charge.

Only document charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.

(4) Other services which are not specifically listed on the Schedule of Minimum Charges for Escrow services may be rendered provided a justifiable charge is made.

#### Procedure:

- Review each title agency submission for completeness of filing
- If not complete, reject and ask for resubmission of completed information
- Review for title insurance and escrow, separately for requirements of not operating at a loss in either area
- Compare current year with previous year(s)
- Audit those agencies that do not comply with statute and rules
- Suggested solutions could include:
  - Justification of rates being charged
  - Business Plan to establish how they can become profitable within 12 months, with an immediate implementation to begin to reduce expenses and/or increase profitability
  - 24 month probation
  - Quarterly reporting of financials
  - CPA certified financials annually
  - Is there a tolerance level (ie: \$1000 negative) that may change remedial options
- Imposition of a fine, partially or all 'waived' upon completion of other specified requirements.

#### Reporting:

- Create a spreadsheet that can aggregate(or average)the totals for net income and net expenses for title and for escrow, trend year to year(**no individual agency numbers**)

NEED TO KNOW WHAT OTHER KINDS OF REPORTING THAT THE TITLE AND ESCROW COMMISSION AND/OR ULTA WOULD LIKE ON THIS ISSUE.